

Meeting Minutes
Delaware Native Species Commission
March 8, 2019 at 10 am
Kent County Administrative Building, 555 Bay Road, Dover, Delaware
Room 220

Minutes approved on: April 17, 2019

Members Present

James White, Chair
Robert Thornton, Vice-Chair
Jeffery Downing
Michael Petit de Mange
David Saveikis
Tracy Surles- via phone
Christopher Heckscher
Ashley Kennedy
Michael Costello
Jessica Inhof
Sarah Cooksey
Janice Truitt
Katherine Holtz

Members Absent

Lori Athey
James McCulley

Administrative Staff

Jennifer Childears, Administrative Specialist III

Public Present

Stephanie Hansen, State Senator (via phone)
David Ennis
Maryanne Ennis
Jeff Brothers
Lian Marie Colon
Steve Sterling
Richard Sterling
Karen Barker
Tere Schubert
Elaine Schmerine
Faith Kuehn
Kash Srinivasan
Flavia Rutkosky
Bill McAvoy
Shelia Smith

Call to Order

Mr. White called the meeting to order at 10:06 a.m.

Review and Approval of Minutes

The commission reviewed the minutes of the December, 19, 2018 meeting. Ms. Inhof noted her name was left off the list of attendees. Mr. Costello made a motion, seconded by Mr. Saveikis to accept the minutes with the noted change. The motion carried unanimously by the eligible commission members.

Unfinished Business

Mr. White officially welcomed Ms. Truitt to the Commission, although this was her second meeting. Ms. Truitt noted she was Chair of the Delaware Association of African American Farmers.

On the matter of commission members teleconferencing in for meetings, Senator Hansen has spoken with her peers and there is movement to bring something before the General Assembly allowing members to attend via Skype for advisory commissions such as the DE NSC. This movement is in its early stages so Senator Hansen does not know if or when anything may happen.

With regards to creating by-laws, it would not fix the matter of commission members calling in as there are also FOIA laws that need to be followed. For now, the commission will continue in the manner they have been and hope all members can be present for future meetings.

New Business

Law and Regulations Subcommittee Report

Mr. Petit de Mange reported that the subcommittee has not met recently but hopes to arrange a meeting this month. In the interim, Mr. Petit de Mange continued contact with the State Planning Office to review laws and codes. There is an increase of codes promoting good practices but many are silent on using native species or discouraging use of non-native or invasive species. Mr. Petit de Mange noted that Rehoboth Beach is addressing the issues of native use versus non-native/invasive use and they are moving towards adopting actions in their upcoming comprehensive plan to provide ways to plant native species. A goal for the subcommittee is to create a model comprehensive plan for future use by towns/cities. Usually, comprehensive plans last 10 years and Rehoboth Beach is at 80% maturity so they are working on their next 10 year plan.

Education Subcommittee Report

Mr. Downing reported that subcommittee met Feb 19. The primary focus was on creating a branding campaign. After reviewing some national and international examples, the subcommittee came up with a list of tag lines that they considered engaging and interactive. The top three are "Keep Delaware Wild", "Find Your Wild Side" and "Save Delaware's Wild Side". The subcommittee wants to make it a simple, straightforward, fun action phrase.

Ms. Holtz found the tag lines interesting, makes a person want to look up what is wild in Delaware.

Ms. Truitt asked why the word “wild” was so prevalent. Mr. Downing responded that “wild” has a natural connotation of not being tame and “grow” was too plant focused. Mr. Saveikis noted “wild” could mean wilderness, perhaps something more along the line of “Keep Delaware Natural” or “Naturally Wild”.

Mr. Thornton noted that “wild” has a lot of meanings and it could get a person’s attention. Mr. Downing felt “Keep Delaware Wild” might be more relatable to younger people. Mr. Saveikis mentioned that Fish & Wildlife’s Bayshore Initiative has “Delaware’s Wild Side” as part of their branding.

A public member mentioned testing the top three tag lines with the public to which Mr. Downing noted he wanted to bring it to the commission first for discussion before doing any public testing.

Senator Hansen mentioned that the branding should impress that people can make a difference in their own backyards and we want citizens to change their behavior in their yards and “wild” might not be the image we want to bring to mind. There has also been a lot of discussion in the state about legalized marijuana use and “wild” might make people think of that instead of native species.

Mr. Costello offered the idea of bumper stickers along the lines of “I’m Local” and highlighting a local species. Mr. White mentioned a play on SOS- Save our Native Species to which Mr. Saveikis mentioned using caution if using the word “native”.

Ms. Kennedy thought since we have public at the meeting, we should hear their thoughts. The public provide ideas such as “Stay Native”, “Go Native” and Ms. Kennedy mentioned that any use of “native” must be followed with “species” to avoid confusion.

Ms. Truitt offered the phrase “Cultivate our Natural Nature” within the Delaware state image might be appealing to growers, farmers and others.

Mr. White noted that the Commission is not in a place to vote on a tag line just yet and that the subcommittee will need to discuss further the comments from today and develop a process to present again.

Top Ten List

First Steps

The commission members were given a list of the top ten recommendations to start work on. Second on the list is “Make the sale of invasive plants illegal in Delaware, allowing an appropriate phase-out period after legislation passes. (A) Invasive species are those on the Delaware Invasive Species Council plant list, as periodically amended. (B) The Delaware Invasive Species Council plant list must be reviewed and amended if necessary on a regular basis.”

Senator Hansen has written a draft bill to ban invasive species sales and requested the commission review and comment on it. Wording for part of the draft bill was taken from the current Agriculture Code pertaining to noxious weeds. Given that, this bill would fit more logically under the Department of Agriculture in terms of enforcement matters. There is also wording taken from the Delaware Invasive Species Council (DISC) website and the list of invasive species is from the current DISC list. The Department of Agriculture estimates it would need an additional 4 new staff to handle work beyond point of sale. The lower the fiscal note attached to the bill, the better its chances are to move through the General Assembly.

The Commission reviewed the draft bill line by line and discussions were held as follows. A portion of the draft bill is followed by all discussion relevant to that portion. Secretary refers to the Secretary of the Department of Agriculture.

“No person may sell, collect, transport, distribute, propagate or transplant any viable portion, including seeds, of an invasive plant in this State, unless the Secretary provides prior written consent” This language is overly broad. The Department of Agriculture is concerned with going beyond the point of sale and how that would affect staffing in terms of enforceability of collecting, transporting and transplanting. The Department of Agriculture would rather see more focus on selling and distributing. Also, there needs to be exceptions made for collecting and transporting for citizens removing invasive species from yards, scientific work, educational needs and eradication. What are the limitations on consent? There needs to be language to allow for certain situations that would require possession of invasive or non-native species. The bill would be enacted on a set date which would allow for retailers to remove their stock. There may also be an enabling clause to allow the Secretary to promulgate regulations. Need to keep in mind what the Department of Agriculture can enforce. Point of sales mostly, regulating landscapes may be too cumbersome. Education is key but the first step is stopping point of sale and mail orders.

“The Secretary may make the alteration to the Invasive Plant List under Chapter 101 of Title 29” There was a need to name someone in perpetuity, such as a department secretary, as opposed to the Native Species Commission, which will sunset after 10 years to be in charge of editing the list. Comments from the Department of Agriculture, held outside of this commission meeting, suggested having a committee of stakeholders that would make suggestions for the Secretary. The commission agreed that if they could provide input as to the groups represented on the committee, they would cede the authority of editing the plant list to the Secretary. Groups the commission would want represented include representatives from the Delaware nursery and landscape industries; Department of Agriculture; Department of Natural Resources and Environmental Control- specifically Fish & Wildlife; Department of Transportation; Plant and Soil Science faculty from University of Delaware or Delaware State University; Delaware Invasive Species Council; NGO Conservation Agencies; the public; and the Native Species Commission while it is active. Title 101 allows for a formal public process to edit the regulations once established so there will be a time for input from all stakeholders when the list needs to be changed.

“The Secretary, in consultation with the Delaware Native Species Commission, shall maintain a list of invasive plants...” The language here will need to be changed as the NSC will sunset in

2028. However, if there is an update to the line mentioned in the previous paragraph here, this line might not be needed at all.

“Violations” Does this change the Department of Agriculture to a law enforcement agency? How will violations be processed and what is the procedure for making allegations? The Commission should be educating first, then curtailing, then eliminating as opposed to laws that create large fines or adjudicating. A \$1,000 fine seems too high. The amounts can be changed but there needs to be a point where it is hurtful to a business to continue selling non-native/invasive species, otherwise they add it to the cost of business and continue with their practices, passing the fine costs on to the buyer. Enforcement and penalties are needed to stop retailers from selling. There could be a change to make it a civil penalty. Also would want to see language inserted regarding opportunities to advice, abate and correct before assessing a fine. Would rather see steps leading up to a fine then assessing a fine first.

“Invasive Plant List” This list was taken from DISC’s most recent list of wide spread, restrictive and aquatic invasive species. The list is from 2003 and DISC is working on a new list but will take some time to have that prepared. With the ability to edit the list already included in the bill, it would be, for the sake of time, best to use this list. Several spelling errors need to be corrected. If the bill is changed to limit it to point of sales, the list could be pared down to just those species that are sold at retailers. But we would need other methods to eliminate the spread of the other plants on the list. Changing the list once it is enacted would be a five or more month process so the reality is the list might change only every few years. DISC will take a look at the list and provide a professional judgement of what should be left on, added or removed from the list as presented in the draft bill. DISC is an educational council, it does not regulate. There could be a tier system introduced. Mt Cuba has a study on invasive plants that are sold in Delaware and that list will be sent to Senator Hansen for review.

“Invasive plant means any living part, cultivar, variety, or subspecies of a species identified by the Secretary with the advice of the Delaware Native Species Commission, as a non-native species with the potential to do all of the following...” Does this need to specify non-native to Delaware? The Division of Fish & Wildlife specifies Delaware in their regulations. What is the intent of “all” in the statement? Will the species have to meet all listed criteria to be considered invasive or can it meet “any”?

Senator Hansen will edit the bill after reviewing all of the comments and send it through email to the Commission members for review and discussion at the April meeting of the NSC.

Goals for 2019

The commission members were given a list of their goals for 2019. One of the goals is to develop a budget. Senator Hansen noted that she can pursue different sources depending on the amount needed but would need a list of items needed and costs. The commission will discuss this at their meeting in April.

A second goal involves coordinating with other stakeholders in an Environmental Symposium in the fall of 2019. A member of the public mentioned that the Delaware Center for Horticulture holds symposiums and perhaps the commission can connect with them.

Public Comment

The public commented throughout the meeting. There was additional discussion of the use of “any” or “all” in the draft bill. Would want to use all as it is important to have all the criteria to show it is an invasive, non-native plant species. A suggestion was made to have Bill McAvoy, botanist for the Division of Fish & Wildlife, send language that will help create a better criteria list or address the concerns entirely.

Ms. Childears mentioned to the commission that she received an inquiry from an undergrad as to the need for an intern. Mr. White requested that Ms. Childears send him the contact information and he will reach out to them.

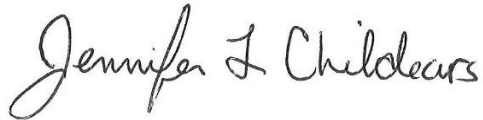
Next Meeting Date and Location

The next meeting is scheduled for April 17, 2019 in Room 221 from 10-12. Senator Hansen requested that the meeting times be moved to 9-11 am. As none of the commission members present had an objection, meetings will be moved to 9-11 am.

Adjournment

There being no further business, meeting adjourned at 12:10 pm.

Respectfully Submitted,

A handwritten signature in black ink that reads "Jennifer I. Childears". The signature is written in a cursive, flowing style.

Jennifer Childears, Administrative Specialist III
DNREC, Division of Fish & Wildlife